



U.S. Department of Justice

*United States Attorney
Southern District of New York*

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

June 19, 2018

Via ECF

The Honorable Paul A. Crotty
United States District Judge
Southern District of New York
500 Pearl Street, Courtroom 14C
New York, New York 10007

**Re: *United States v. Joshua Adam Schulte,*
 SI 17 Cr. 548 (PAC)**

Dear Judge Crotty:

We write to respectfully request that the Court allocute the defendant concerning his anticipated waiver of venue on seven of the counts contained in the above-referenced superseding indictment (the "Indictment").

On June 18, 2018, a Grand Jury in this District returned the Indictment charging the defendant in 13 counts. As referenced in the Indictment, as to Counts One through Seven, venue is appropriate in the Eastern District of Virginia. Nevertheless, based on conversations with defense counsel, the Government understands that the defendant anticipates waiving any challenges to venue and proceeding in this District with respect to those counts. *See United States v. Novak*, 443 F.3d 150, 161 (2d Cir. 2006) ("[A] defendant's right to proper venue is a personal defense subject to waiver.").

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Accordingly, the Government respectfully requests that the Court allocute the defendant at arraignment concerning his anticipated waiver of venue. To that end, enclosed please find a proposed examination of the defendant intended to guide that allocution.

Respectfully submitted,

GEOFFREY S. BERMAN
United States Attorney

By: 

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Enclosure

Cc: Defense Counsel
(Via ECF)

**The Government's Proposed Examination of
Joshua Adam Schulte Concerning His Anticipated Waiver of Venue**

A. Introductory Questions

- a. How old are you?
- b. How far did you go in school?
- c. Do you currently consult a doctor or a mental health professional for any condition?
- d. Are you currently under the influence of alcohol or drugs of any kind?
- e. Do you understand what is happening today?

B. Venue Rights

- a. Do you understand that in every criminal case, including this one, unless a statute or rule permits otherwise, the Government must prosecute an offense in a district where the offense was committed?
- b. Do you understand that with respect to Counts One through Seven of the Superseding Indictment in this case, the Government is alleging that these offenses were committed in the Eastern District of Virginia and not the Southern District of New York?
- c. Do you understand that you have the right to defend yourself against Counts One through Seven in the Eastern District of Virginia and not the Southern District of New York?
- d. In other words, do you understand that if you so chose, you have the right to have Counts One through Seven transferred to the Eastern District of Virginia?
- e. Have you had a sufficient opportunity to discuss these issues with your attorney?
- f. Is there anything that you wish to have explained further concerning venue?

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- g. Would you prefer to adjourn today's proceeding until you can give more thought to this matter?

C. Waiver of Venue

- a. After considering all that the Court has said about venue, as to Counts One through Seven, do you waive your right to challenge venue in this case?
- b. In other words, do you wish to defend yourself as to Counts One through Seven in the Southern District of New York and not the Eastern District of Virginia?
- c. Do you understand that by choosing to waive any challenges to venue, you are waiving your right to at a later time object to Counts One through Seven being tried in the Southern District of New York on the basis that venue is not appropriate in this District?
- d. Is that your wish?
- e. Are you knowingly and voluntarily waiving your right to venue as to Counts One through Seven?
- f. Do you agree to waive any post-conviction argument, on appeal or otherwise, that venue was improper in the Southern District of New York as to Counts One through Seven?
- g. Has anyone forced or threatened you to waive your right to venue in the Eastern District of Virginia?
- h. Has anyone made any promises to you in connection with waiving your right to venue in the Eastern District of Virginia, or in exchange for that waiver?
- i. Is there anything that the Court has said that you wish to have explained further?